

1           **JAMES R. GREINER, ESQ.**  
2           CALIFORNIA STATE BAR NUMBER 123357  
3           **LAW OFFICES OF JAMES R. GREINER**  
4           555 UNIVERSITY AVENUE, SUITE 290  
5           SACRAMENTO, CALIFORNIA 95825  
6           TELEPHONE: (916) 649-2006  
7           FAX: (916) 920-7951  
8           E MAIL: jaygreiner@midtown.net  
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10          ATTORNEY FOR DEFENDANT  
11          JAVIER JIMENEZ GOMEZ

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF CALIFORNIA

17 Plaintiff, the United States of America, by its counsel, Assistant United  
18 States Attorney, Ms. Mary Grad, and defendant, JAIVER JIMENEZ GOMEZ,  
19 represented by Mr. James R. Greiner, hereby stipulate and agree that the status  
20 conference calendared for Friday, October 12, 2007, at 10:00 a.m., before the  
21 Honorable Senior District Court Judge, Edward J. Garcia, shall be continued to  
22 Friday, November 16, 2007, at 10:00 a.m..

23 Colleen Lydon, the Court's deputy clerk, was contacted by counsel to check the  
24 proposed date and the date of Friday, November 16, 2007, was open and available for  
25 the Court for a further status hearing date. No trial date has been set. The defendant is  
26 in custody.

## **SPEEDY TRIAL ACT-EXCLUSION OF TIME**

2 The parties agree and stipulate the Court can find an exclusion of time from the  
3 Speedy Trial Act, Title 18 U.S.C section 3161, et seq., based on the needs of counsel  
4 to prepare pursuant to Title 18 U.S.C. section 3161(h)(8)(B)(iv) and Local Code T-4;  
5 the parties stipulate and agree that the interests of justice served by granting this  
6 continuance outweigh the best interests of the public and the defendants in a speedy  
7 trial, Title 18 U.S.C. § 3161(h)(8)(A); the parties agree and stipulate that the case,  
8 based upon the amount of discovery including but not limited to the wire taps and  
9 volume of tape recordings, is complex within the meaning of Title 18 U.S.C. section  
10 3161(h)(8)(B)(ii), for the following factual reasons:

11                   1-The government has provided to defense counsel over 700 pages of  
12 hard discovery and 2 CD dics which are the wire tap interceptions which from the  
13 brief over view by defense counsel has easily over 1,000 telephone conversations on  
14 each of the CD's and each telephone conversation recording is of varying time  
15 durations. The hard copy discovery needs to be reviewed and reviewed with the  
16 client and each of the CD's that appears to have easily over 1,000 telephone calls on  
17 each CD needs to be reviewed and reviewed with the client.

18 The review of this massive amount of documentation is continuing and the  
19 additional time is needed to continue to review this material and to review this  
20 material with the client. In addition, the additional time is needed by the defense to  
21 get a general broad handle on the potential issues in this case so that a plan of  
22 investigation can be reasonably formulated. The review of this material is on-going  
23 and time consuming. It is taking counsel longer than first anticipated to review all of  
24 the thousands of telephone calls on the CD. Defense counsel is working diligently in  
25 the reviewing of this material. The defendant is in custody in the Sacramento County  
26 Jail.

1       2- The government and the defense have been in plea negotiations over many  
2 weeks. The government has provided additional discovery throughout this time  
3 period, and even yesterday provided additional discovery. The additional discovery  
4 has and is being reviewed with the defendant as it is being produced by the  
5 government.

6       3-The defendant has been in consultation with all but one or two of his family  
7 members to discuss the decision facing the defendant. With the government providing  
8 additional discovery, with the defendant attempting to communicate with all of his  
9 family members, the additional short time of the continuance will allow for this to  
10 happen.

11      4- The government and the defense have been mutually attempting in good  
12 faith to reach agreements on sentencing issues so as to resolve this matter short of  
13 trial. This additional short continuance will allow the on going negotiations in good  
14 faith to continue.

15      5- The defense is requesting this additional time to do the investigation that has  
16 arisen in the good faith negotiations with the government in an attempt to resolve this  
17 case short of trial. To allow the defendant to make an informed, intelligent and  
18 knowing decision whether to enter into a plea with the government or not, the defense  
19 needs to investigate the issues surrounding immigration. Some of those issues are: A-  
20 what is the defendant's true immigration status; B- what, if any, effect does a plea of  
21 guilty to the government's offer have on the defendant's immigration status; C-what  
22 legal options are available to the defendant in negotiating a plea with the government;  
23 D-what other potential options does the defendant have regarding immigration.

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1 STATUS OF THE CASE

2 This case was originally filed by the government on February 20, 2003. At that  
3 time the Indictment named nine (9) defendants, JAVIER GOMEZ being one of the  
4 nine named. (See Docket Entry # 1)

5 Six of the named defendants have pled guilty: 1-Marcos Gonzales on April 14,  
6 2003 (See Docket Entries 30, 31, 32); 2- John Cabales on April 25, 2003 (See Docket  
7 Entries 34, 35); 3-Javier Campos on May 30, 2003 (See Docket Entries 46, 47); 4-  
8 Jorge Ramos on July 14, 2003 (See Docket Entries 54, 55, 56); 5- Heriberto Ramos  
9 on September 2, 2003 (See Docket Entries 67, 68, 69, 70); 6- Andres Lugo on  
10 January 27, 2006 (See Docket Entries 112, 113).

11 The government has dismissed against two defendants: 1-Ronnie Belasco, Jr.,  
12 on August 4, 2003 (See Docket Entry 61); 2- Jose Jesus Pimentel Gallegos (See  
13 Docket Entries 141, 142).

14 The one defendant remaining is Javier Jimenez Gomez. This defendant first  
15 appeared on September 22, 2006. (See Docket Entry 118).

16 Since that time the Court has found excludable time under the Speedy Trial Act  
17 due to the enormity of discovery and the need for counsel to review the discovery and  
18 hold meaningful discussions with the defendant about the discovery in this case. The  
19 Court has weighted and balanced the needs of the government, the needs of society  
20 and the needs of the defendant and his counsel and taking the case as a whole into  
21 consideration the Court has found that the requests have been reasonable and  
22 necessary to allow for effective preparation in the exercise of due diligence. (See  
23 Docket Entries 122, 124, 127, 130, 131, 132, 135, 137, 139, and 140)

24 Finally, James R. Greiner has been authorized by counsel for the government  
25 via telephone conference to sign this stipulation on her behalf.

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1 Respectfully submitted,

2 McGREGOR W. SCOTT  
3 UNITED STATES ATTORNEY

4 DATED: 10-3-07

5 /s/ MARY GRAD authorized by telephone

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MARY GRAD  
7 ASSISTANT UNITED STATES ATTORNEY  
ATTORNEYS FOR THE PLAINTIFF

8 DATED: 10-3-07

9 /s/ JAMES R. GREINER

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JAMES R. GREINER  
11 ATTORNEY FOR DEFENDANT  
JAVIER JIMENEZ GOMEZ

12 **ORDER**

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14 **FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.**

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16 DATED: October 4, 2007.  
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21 /s/ Edward J. Garcia

22 **EDWARD J. GARCIA**

23 **SENIOR UNITED STATES  
24 DISTRICT COURT JUDGE**